



# City of Santa Barbara California

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** June 12, 2008  
**AGENDA DATE:** June 19, 2008  
**PROJECT ADDRESS:** 1406 Grand Avenue (MST2007-00606)

**TO:** Planning Commission  
**FROM:** Planning Division, (805) 564-5470  
 Jan Hubbell, AICP, Senior Planner *JMH*  
 Roxanne Milazzo, Associate Planner *RM*

### I. PROJECT DESCRIPTION

The 9,800 square foot project site is currently developed with a single-family residence and garage. The proposed project involves an enforcement case for over-height vegetation. On January 30, 2008, the Staff Hearing Officer denied a request for an over-height hedge located on the northern portion of the lot, and approved a portion of the existing hedges located along the westerly and front lot lines, with conditions. This is an appeal of that decision.

### II. REQUIRED APPLICATIONS

The discretionary applications required for this application are Modifications to permit hedges located within ten-feet (10') of the front lot line to exceed a maximum height of 3 ½' and eight-feet (8') within required yards (SBMC §28.87.170).

### III. RECOMMENDATION

Staff is recommending that the Planning Commission deny the appeal and uphold the Staff Hearing Officer's decision to reduce the portion of the front lot line hedge, located to the left of the garage, to 3 ½', and to reduce the rear (northern lot line) hedge to the maximum allowable height of eight-feet (8').



<b>APPLICATION DEEMED COMPLETE:</b>	December 3, 2007
<b>DATE ACTION TAKEN BY STAFF HEARING OFFICE:</b>	January 30, 2008
<b>DATE ACTION REQUIRED:</b>	Not Applicable

#### **IV. SITE INFORMATION AND PROJECT STATISTICS**

##### **A. SITE INFORMATION**

Applicant/Appellant: Eric Kitchen	Property Owner: Jill Kent
Parcel Number: 029-042-014	Lot Area: 9,800 sf
General Plan: 3 Units Per Acre	Zoning: R-2 Two-Family Residence Zone
Existing Use: Single Family Residence	Topography: 27% Slope
Adjacent Land Uses: North – One-Family Residence                      East – One-Family Residence South - One-Family Residence                      West - One-Family Residence	

##### **V. BACKGROUND**

March 2006 - A citizen complaint regarding overheight hedges along property lines was filed, and enforcement activity was initiated. Staff was informed that litigation was pending between the subject hedge owner and the property owners to the rear at 836 Jimeno Road related to the blocking of views by the overheight hedge located along the rear lot line.

November 2007 – A follow-up Staff inquiry revealed that this case was still unresolved. The property owner was instructed to reduce, remove, relocate, or apply for a Modification to maintain the existing hedge. The property owner advised Staff that the outcome of recent litigation action was to reduce the hedge height or obtain a Modification from the City to exceed the maximum allowable eight-foot (8') height limit. During the pre-consultation meeting, Staff recommended that the applicant consider strategically placed canopy trees as a means of securing her privacy without violating the height limitations. The applicant pointed out that, due to the grade change between her property and the neighbor to the rear, her twelve-foot (12') hedge would only appear to be eight-foot (8') high when viewed from the neighbor's property. Staff reminded the applicant that making required findings of "appropriateness" might be difficult when the immediate neighbor was opposing the request. The applicant filed a Modification application to proceed with the hedge height request.

January 2008 – In spite of requests from the public to withdraw the item from the scheduled agenda, the Staff Hearing Officer reviewed the case. After much discussion, the Staff Hearing Officer (SHO) issued a tentative decision on the request (Exhibit D). With the assistance of the City Attorney's Office, a final decision was rendered on January 30, 2008, which allowed the eastern portion of the front lot line hedge to be maintained at a height of 8', the portion to the west side of the garage to be reduced to 3 ½', and denying the request to allow the hedge along the rear (northern) lot line to exceed a height of eight-feet (8').

Note: Staff is aware of the Santa Barbara County Superior Court Case No. 1189394 concerning alleged violations of the City's View Ordinance, Chapter 22.76 of the Santa Barbara Municipal Code. Nothing in the Staff Hearing Officer's decision should be interpreted to allow the

maintenance of hedges on 1406 Grand Avenue in a manner that violates or is inconsistent with any final order or judgment in that case. Note: A reading file of documentation related to the court case is available for viewing at 630 Garden Street.

February 11, 2008 – Appeal filed by Eric Kitchen on behalf of the property owner who wishes to maintain all hedges at their current heights. Appeal scheduled for April 3, 2008. After due consideration, Staff requested additional information for the Planning Commission Appeal, including an accurate survey of all existing hedges and their heights. The Hearing was rescheduled to June 19, 2008, to allow time for the required information to be provided.

## VI. ISSUES

Hedge heights on residential property are limited to 3 ½' within the first 10' of a front lot line and the first 20' along a driveway, and 8' in height in all required yards. Staff understands that these limits were established in 1957 to assure that hedge heights did not exceed acceptable heights necessary for safety, health, and aesthetics.

Even when hedges comply with the language of the Ordinance, problems with the allowable heights do arise. In 2002, the City established a private process for neighbors to resolve disputes related to alleged blockage of private views by private trees or vegetation. This applicant has used that process but, unsatisfied with the outcome, chose to process a Modification application as an additional effort to maintain hedges at their current heights.

Recent information provided by the applicant reveals a 3-4'-high stone retaining wall, located along the northern property line, with an 11½'-high hedge in front of it. It is the applicant's position that, because of the grade difference between the two properties, the maximum eight-foot height should be measured from her neighbor's property. By taking the measurement from her property's grade, a hardship is created by limiting the hedge height above the wall to a maximum of 4' in height which she believes is not adequate to secure her privacy. The applicant is also requesting that she be allowed to maintain the front lot line hedge, that is situated above a 4' high retaining wall to be maintained at its current height of 8 ½'. Reducing the hedge to 3 ½' as required by the SHO will eliminate the privacy it provides to the front garden area.

Staff often sees requests for hedge heights in excess of the Zoning Ordinance limitations. Some requests can be justified due to grade changes, location, or unique circumstances on site. In order to grant a Modification, the decision maker(s) might determine that the proposed height is necessary to secure an appropriate improvement and that the height is consistent with the purposes and intent of the Ordinance. It becomes extremely difficult to make the required finding when there is opposition by an immediate neighbor. Extensive information and photo documentation provided at the Public Hearing indicated an adverse impact related to the existing overheight hedge along the rear lot line and resulted in a determination that the Modification could not be granted for that portion of the hedge. The reduction of the westerly

portion of the front lot line hedge is consistent with Staff's position that the appropriate look for our residential neighborhoods is a hedge height that allows a view of the development on site from the right-of-way. Staff understands that the safety issues associated with overheight vegetation along a front lot line or driveway, do not apply to this property.

The Staff Hearing Officer expressed opinion that the site was somewhat constrained and that a variety of hedge and wall heights exist as a pattern in this neighborhood. The Staff Hearing Officer could support a limited Modification approval, but was also concerned that accurate information was not provided. Further concerns from affected neighbors were important, therefore a partial denial was issued by the SHO.

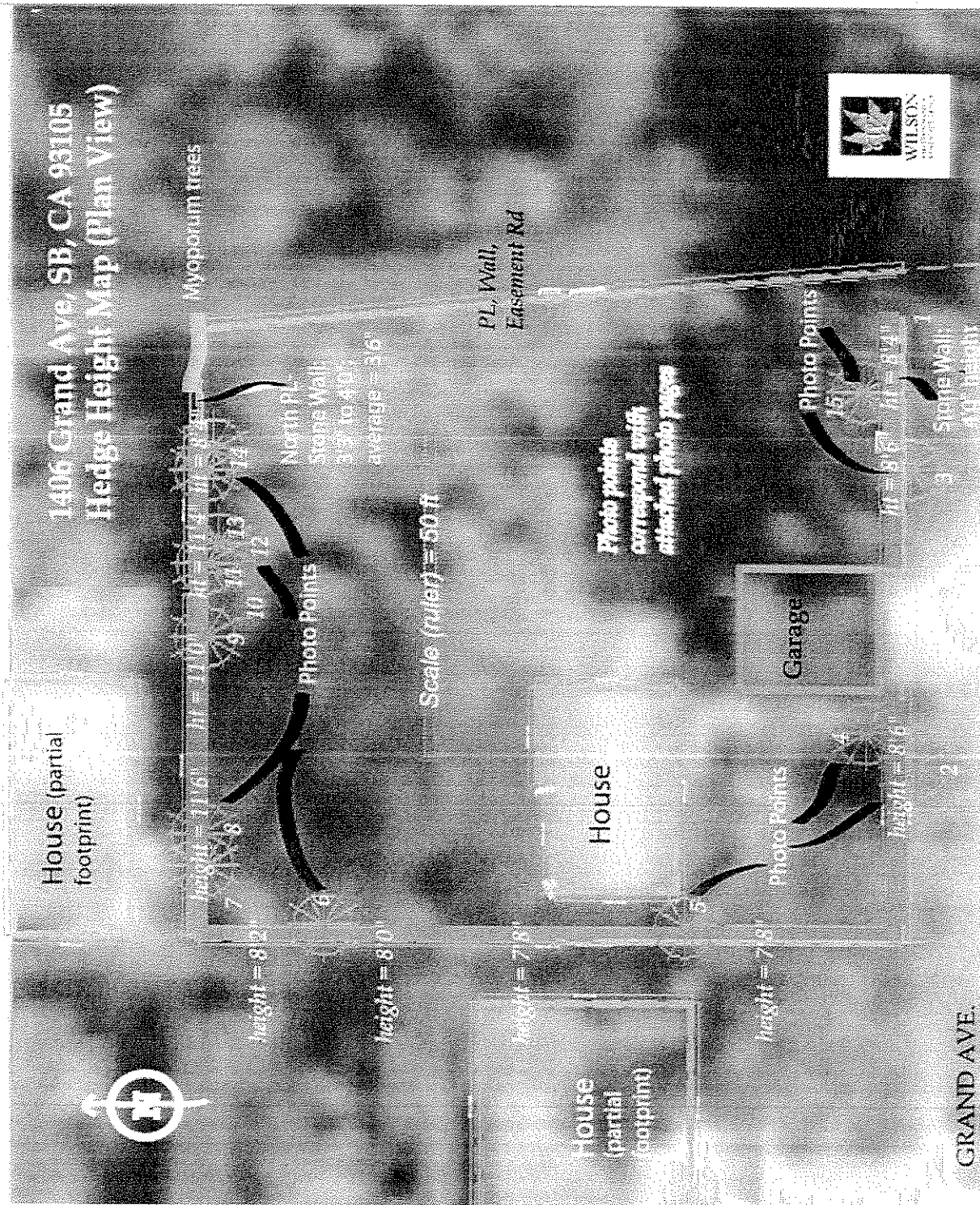
## **VII. FINDINGS**

A Modification of hedge heights may be granted when the Modification is necessary to secure an appropriate improvement on a lot and is consistent with the purposes and intent of the Zoning Ordinance.

It is Staff's position that the maintenance of the existing front yard hedge screens the residence from the public right-of-way and therefore is not consistent with the City's objective of providing friendly, safe neighborhoods, and that the rear hedge, with its hardship to the neighbor does not secure an appropriate improvement for this site.

### **Exhibits:**

- A. Site Plan and Photos
- B. January 16, 2008 Staff Report
- C. Correspondence
- D. SHO Minutes
- E. SHO Reso
- F. Appeal Letter dated February 11, 2008



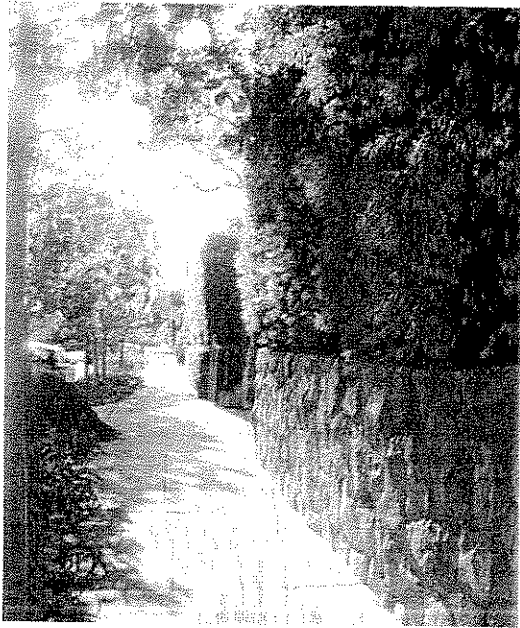


Photo 1: view of front yard parkway, looking from SE corner to W

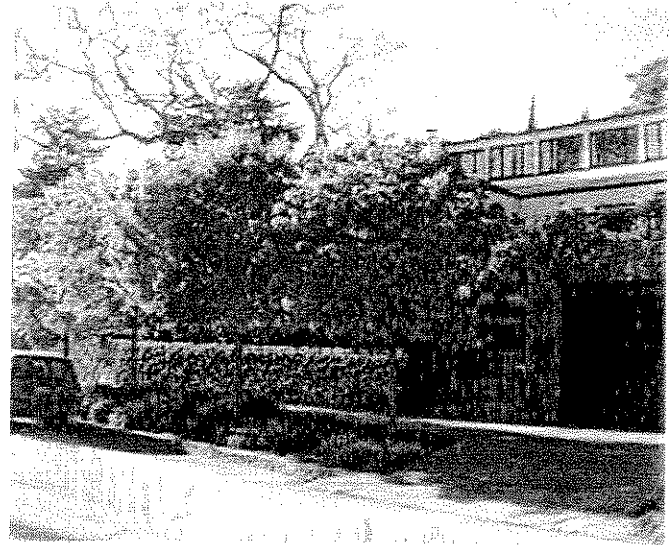


Photo 2: View of SW property corner from Grand Ave. Note view of street/parkway trees in foreground and residence in background

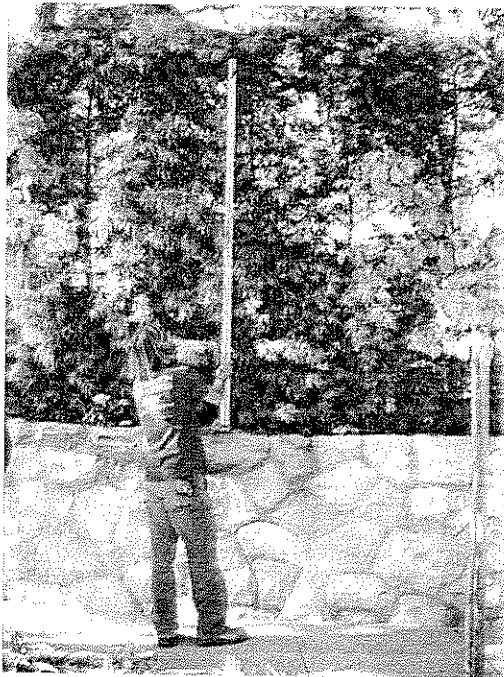


Photo 3: FY hedge E of garage = 8'6" high, from street, looking N; wall=4'

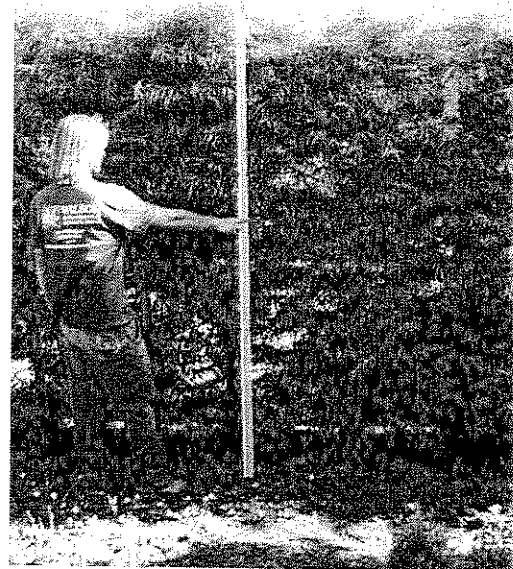


Photo 4: FY hedge W of garage = 8'6" high, from inside yard, looking S





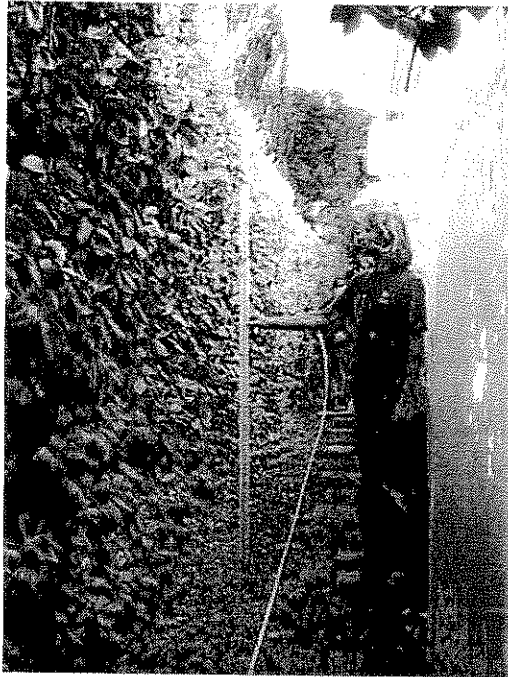


Photo 5: view of W side yard,  
Height = 7'6", looking N

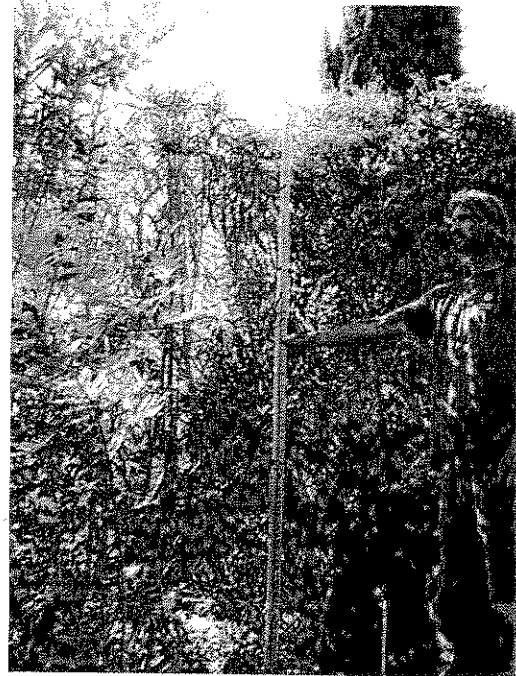


Photo 6: view of NW inside property corner,  
Height = 8'0"



Photo 7: View of NW property corner,  
Height = 8'0". Note neighbor's trees in  
background

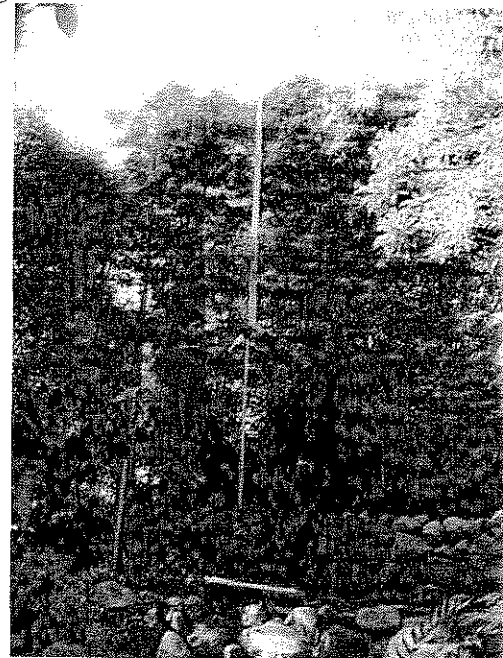


Photo 8: W-most corner of back (N) hedge,  
Height = 11'6". Note, 8' stadia rod is atop 4'  
tape







Photo 9: close up view of N property line in background (behind hedge), Height = 3'8"

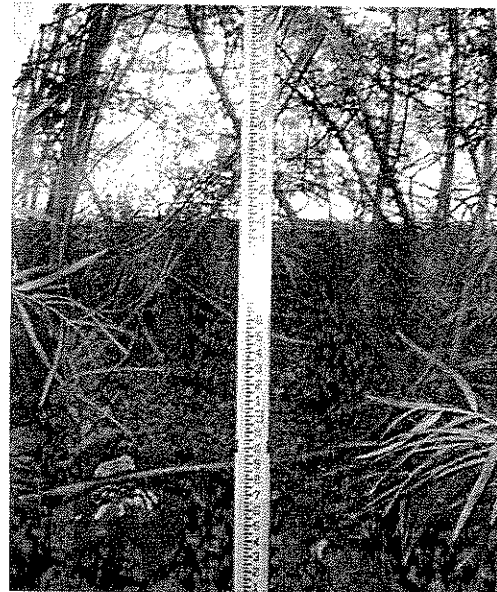


Photo 10: close up view of N property line in background (behind hedge), Height = 4'0"



Photo 11: close up view of N prop. line behind hedge, ~49' from NW corner, Height = 3'5"

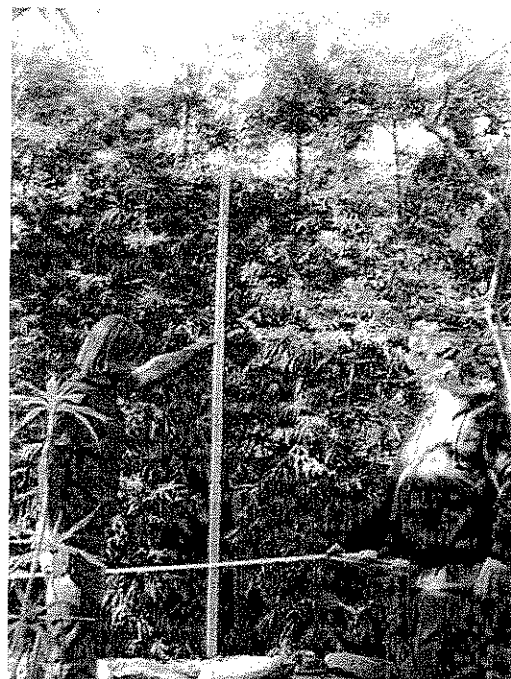


Photo 12: same view as Photo 11, showing full hedge and survey stake, Height = 11'0"



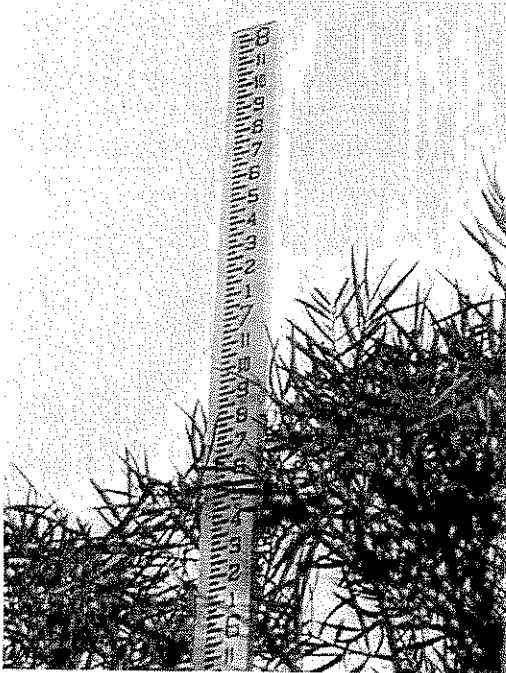


Photo 13: close up view of N property line hedge, Note: stadia is atop 4' extension, Height = 11'0"

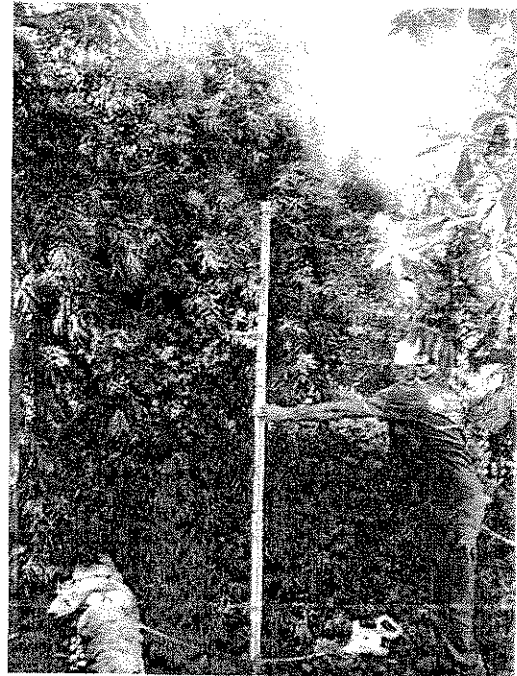


Photo 14: view near NE property corner as grade descends steeply, just before myoporum trees, Height = 8'4"



Photo 15: view of SE property corner from inside, Height = 8'4"





# City of Santa Barbara California

## STAFF HEARING OFFICER STAFF REPORT

**REPORT DATE:** January 9, 2008  
**AGENDA DATE:** January 16, 2008  
**PROJECT ADDRESS:** 1406 Grand Avenue (MST2007-00606)  
**TO:** Staff Hearing Officer  
**FROM:** Planning Division, (805) 564-5470  
Danny Kato, Zoning & Enforcement Supervisor  
Roxanne Milazzo, Associate Planner

*mj for DYK*  
*Rox*

### I. PROJECT DESCRIPTION

The 9,800 square foot project site is currently developed with a single-family residence and garage. The proposed project involves an enforcement case for over height vegetation.

### II. REQUIRED APPLICATIONS

The discretionary application required for this application is a Modification to permit hedges located within ten-feet (10') of the front lot line to exceed a maximum height of 3 ½' and eight-feet (8') within required yards (SBMC §28.87.170).

Date Application Accepted: December 3, 2007      Date Action Required: March 3, 2008

### III. SITE INFORMATION AND PROJECT STATISTICS

#### A. SITE INFORMATION

Applicant:	Jill Kent	Property Owner:	Same
Parcel Number:	029-042-017	Lot Area:	9,800 sf
General Plan:	3 Units Per Acre	Zoning:	R-2
Existing Use:	One-Family Residence	Topography:	27% Slope
Adjacent Land Uses:			
	North - One-Family Residence		East - One-Family Residence
	South - One-Family Residence		West - One-Family Residence

### IV. DISCUSSION

The subject property is under current zoning enforcement for over height hedges. The hedge located along the front lot line exceed the maximum allowable height of 3 ½' and the hedge along the rear lot line exceeds a maximum allowable height of eight-feet (8'). Modification

requests for over height vegetation are typically difficult for Staff to support. A site visit to this site revealed circumstances that may qualify this property for relief. The six-foot (6') high front lot line hedge sit on top of an existing four-foot (4') high retaining wall and provides privacy to a front yard garden. Due to the slope of the lot, the residence is still visible over the height of the vegetation. Also considered is the fact that the garages for the property are located along the front lot line, so the hedges do not create the safety issue associated with over height vegetation near a driveway for this parcel or the neighbors. Staff has a similar position on the eight-foot (8') high rear lot hedge which sits on top of a four-foot (4') high wall. Due to the topography differences between this lot and the neighbor to the rear, the hedge provides adequate, not excessive screening to the back yard of this site. It is Staff position that the hedges on this property provide appropriate landscaping for this site while providing privacy to the occupant(s), while not creating any safety issues for the community.

**V. RECOMMENDATION/FINDING**

Staff recommends that the Staff Hearing Officer approve the request by making the findings that the Modification to permit over height hedges on this property is necessary to secure an appropriate improvement of landscaping and that the purpose and intent of the ordinance is being met both for safety and esthetic reasons.

**Exhibits:**

- A. Site Plan
- B. Applicant's letter dated November 27, 2007

Contact/Case Planner: Roxanne Milazzo, Associate Planner  
(rmilazzo@SantaBarbaraCA.gov)  
630 Garden Street, Santa Barbara, CA 93101  
Phone: (805)564-5470

Betsy E. Teeter  
Zoning Enforcement Officer  
City of Santa Barbara  
Community Development Department  
2/11/2008  
Page 5 of 6

In the staff hearing minutes, there is no mention of the recommendations from the Staff Assistant Planner, Roxanne Milazzo, or from Danny Kato, both of whom visited the site and supported Ms. Kent's request for the modification to the hedge height requirements of the ordinance.

Also in the Staff hearing minutes, the Hearing Officer indicated that other hedges shown by the neighbors were not a consideration when, in fact, the hedges were not presented with respect to whether they are considered a violation, but rather to show that Ms. Kent's hedges are in compliance with the compatibility of the neighborhood.

There is no evidence supporting lower hedge heights in this area, specifically because of the varying, hilly topography of the various properties and the property owners' respective need for privacy. Ms. Weis refused to review or consider the photographs that were offered to support Ms. Kent's position.

The hearing minutes reference safe vehicular ingress and egress from the garage. This is not an issue with respect to Ms. Kent's property since her garage is located on the front property and no hedges obscure the view; there is no structure or other visual barrier.

It was specifically because the Hearing Officer was not prepared to measure the differential of the topography at the boundary lines between Ms. Kent's property and the property at 836 Jimeno, that Ms. Kent provided photographs indicating the differential in grades that indicate a grade difference of at least four feet. The hedge at 836 Jimeno is 6'; therefore Ms. Kent's hedge request would only be 2' higher than theirs as she is requesting a hedge of 12'. If she were required to maintain her hedge at 8' as ordered, the neighbor's hedge would be at least 2' higher than hers.

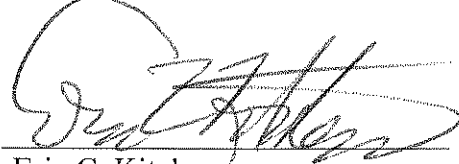
These particular neighbors have complained to the City about the height of Ms. Kent's hedges even though the hedges are not impacting the neighbors' views. The Hearing Officer did not allow Ms. Kent a rebuttal to any of the allegations. The Hearing Officer also refused or neglected to admit many letters written in support of Ms. Kent's position. This important evidence was not admitted or read at the hearing while letters written by the neighbors' friends, attorneys, and the neighbors themselves were admitted.

For each of these reasons we hereby appeal the Hearing Officers order that Ms. Kent trim the hedge in the westerly portion of her yard to 8'.

Betsy E. Teeter  
Zoning Enforcement Officer  
City of Santa Barbara  
Community Development Department  
2/11/2008  
Page 6 of 6

Very truly yours,

By

A handwritten signature in black ink, appearing to read "Eric C. Kitchen", written over a horizontal line.

Eric C. Kitchen

ECK/kce

cc: Jill Kent  
David Grokenberger, Esq.  
Santa Barbara City Attorney



4 Coriaria Jimeno

89.7

Mod  
denied / BLW  
3' high  
wall

Podocarpus 12"

North Canyon City, New

126.5

Approved by Staff Hearing Officer

Date: 1.16.08

Signature: 

7 Unit  
House

Garage

Approved / BLW  
Podocarpus 8'

10'

Approved  
above  
existing  
wall  
BLW

hedge 3.5' max

111.55

14th Street Ave.

All measurements  
approximate

Jill D. Kent  
1406 Grand Avenue  
Santa Barbara, CA., 93103  
805/963-3104

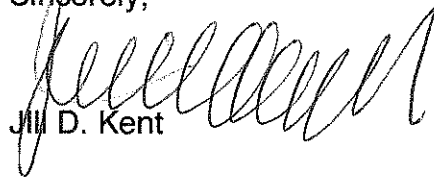
November 27, 2007

Staff Hearing Officer  
City of Santa Barbara  
P.O. Box 1990  
Santa Barbara, CA., 93102-1990

RE: Modification Request for 1406 Grand Ave., #029-042-014, R-2 Zone

1. There are existing hedges surrounding the residence on the South, West, North of the property. The North ground elevation of the contiguous property (836 Jimeno) is four feet higher than the ground level of 1406 Grand Ave. The north hedge is located two feet away from the property line and is twelve feet high measured from the 1406 Grand ground level (eight feet high measured from the 836 Jimeno ground level).
2. The modification being requested is to maintain the North hedge at 1406 Grand Ave. at a height of twelve feet - to provide some privacy from the 836 Jimeno residence located directly behind and considerably above in elevation from the residence at 1406 Grand Ave.
3. The hedges located at the 1406 Grand Ave. property provide privacy from the next door neighbor at 1408 Grand (West hedge - 8 feet) and from 836 Jimeno (North hedge - 12 feet). The South hedge (8 feet) provides privacy from the houses located across the street.

Sincerely,



Jill D. Kent

**EXHIBIT B**

**From:** Patrick Corrigan [mailto:patrickcorrigan@cox.net]  
**Sent:** Sunday, June 08, 2008 9:50 AM  
**To:** Milazzo, Roxanne  
**Subject:** kent appeal before Planning Commission june 19th

Dear Roxanne, As you know, three long years have come and gone since we asked our neighbor to trim her hedges and then the city to enforce the ordinance. Officers have made many visits to no avail. Tens of thousands of dollars in legal fees have been spent needlessly. This woman is every homeowners worst nightmare. As recently as June 3<sup>rd</sup>, 2008 I found her trespassing directly outside our bedroom windows. Betsy and I will be out of the City the day of hearing, but we expect our attorney to be there. We ask that the Planning Commission turn down the appeal. Thankyou.

6/9/2008

**Milazzo, Roxanne**

**From:** Betsy Ingalls [betsyingalls@cox.net]  
**Sent:** Monday, June 09, 2008 8:33 PM  
**To:** Milazzo, Roxanne  
**Subject:** Jill Kent Hearing June 19th 2008

To whom it may concern:

Please deny this appeal. Ms Kent has been disobeying the law and continues to think she is above the law. Her hedges are blocking our views. Please make it clear to Ms. Kent that she must obey the law like everyone else.

My husband found her trespassing just last week in our back yard.

We will be out of town for this hearing but want you to know how important this is to us.

Thank You,

Betsy Ingalls

836 Jimeno Road

962-9326

No virus found in this outgoing message.

Checked by AVG.

Version: 7.5.524 / Virus Database: 270.2.0/1493 - Release Date: 6/9/2008 5:25 PM

6/10/2008

Entered into Advantage:  
☐ Entered into People  
☐ Entered into Parcel/People

Date completed: \_\_\_\_\_ Initials: \_\_\_\_\_

## STAFF HEARING OFFICER REQUEST TO SPEAK FORMS

OPPOSE ☒  
SUPPORT ☐

SPEAKING TIME MAY BE LIMITED BY THE SHO.

DATE: 1-16-08

AGENDA ITEM NUMBER: III B

NAME OF SPEAKER: DAVID GROKENBENGER

ADDRESS: 321 Hot Springs Rd

ORGANIZATION REPRESENTED (IF APPLICABLE) Connigan/Ingalls

WRITTEN MATERIAL ALSO SUBMITTED: YES ☒ NO ☐

COMMENTS: Opposition To Modification Request (Neighbors affected)

PLEASE ADD ME TO THE MAILING LIST FOR FUTURE AGENDAS FOR THIS ITEM ☒

EMAIL NOTIFICATION IS PREFERRED ☒ Email address: dmg@grokenbennger.com

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Entered into Advantage:  
☐ Entered into People  
☐ Entered into Parcel/People

Date completed: \_\_\_\_\_ Initials: \_\_\_\_\_

## STAFF HEARING OFFICER REQUEST TO SPEAK FORMS

OPPOSE ☒  
SUPPORT ☐

SPEAKING TIME MAY BE LIMITED BY THE SHO.

DATE: 1/16/07

AGENDA ITEM NUMBER: III B

NAME OF SPEAKER: Patricia Ingalls

ADDRESS: 826 TIMONO ROAD CB TA 93103

ORGANIZATION REPRESENTED (IF APPLICABLE) \_\_\_\_\_

WRITTEN MATERIAL ALSO SUBMITTED: YES ☐ NO ☐

COMMENTS: Do NOT allow this (or there) modification

PLEASE ADD ME TO THE MAILING LIST FOR FUTURE AGENDAS FOR THIS ITEM ☐

EMAIL NOTIFICATION IS PREFERRED ☐ Email address: hotspringalls@cox.net

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**Milazzo, Roxanne**

**From:** James Westby [jimwestby@cox.net]  
**Sent:** Monday, January 07, 2008 7:10 PM  
**To:** Milazzo, Roxanne  
**Subject:** Application for Modification at 1406 Grand Ave.

To Staff Hearing Officer

We will be unable to attend the hearing regarding the application for a modification of hedges at 1406 Grand Ave.

We are opposed to granting this modification.

Sincerely

Jim and Sharon Westby 822 Jimeno Rd

No virus found in this outgoing message.

Checked by AVG Free Edition.

Version: 7.5.516 / Virus Database: 269.17.13/1213 - Release Date: 1/7/2008 9:14 AM

1/14/2008



Dear Staff Hearing Officer,

Please accept this  
as they already tore apart  
everything. It was devastating  
thousands of Birds died, so  
don't do it any more.

never take out the Wedges. This was historic  
lost tons of Healing Power - Let the Wedges grow  
back. They cut them immediately so never  
ask them to do this -

Jan 15, 2008

Paula Westbury  
650 Monarch Dr.  
Santa Barbara, Calif. 93109

Re: 1406 Grand Ave  
Please read at hearing on  
1-16-08

**PUBLIC COMMENT CORRESPONDENCE:**

DISTRIBUTED ON: 1/16/08 *AWB*

SHO (4):

- ☐ STAFF HEARING SUPERVISOR (Bettie Weiss)
- ☐ ORIGINAL to STAFF HEARING OFFICER (Rox)
- ☐ PLANNING TECH FOR ITEM
- ☐ APPLICANT

Sincerely  
Paula Westbury  
PAULA WESTBURY

## **JANUARY 16, 2008 SHO MINUTES FOR 1406 GRAND AVENUE**

Jill Kent, Applicant/Property Owner, present.

Ms. Weiss stated that she would hear the item as announced in the agenda despite a request from the public to withdraw it due to current litigation regarding the proposed project site.

Ms. Weiss announced that she read the Staff Report, studied the grade differential, made an effort to measure the heights of the existing hedges for the proposed project, and also visited the site and surrounding neighborhood.

Roxanne Milazzo, Assistant Planner, gave the Staff presentation and recommendation.

Ms. Weiss stated that even though the applicant presented evidence of various alleged neighboring setback violations of the Zoning Ordinance, they could not be judged as violations at this hearing and would have very limited bearing upon the present review of the specific modification request while considering perspectives of uniformity, fair application, and specifics of the site such as the lay of the land, neighborhood block location, topography, and various other details of the site.

Ms. Weiss commented that the lay of the land, safe vehicular ingress and egress from the garage, 3½ foot hedge height limitation for the first 10-feet within the front setback, an elevated front yard with a planter resulting in a 8-12 foot visual barrier/structure beyond the acceptable scale and resulting inaccessibility from the street.

Ms. Weiss acknowledged receiving a recent letter correspondence from Ms. Paul Westbury expressing concern regarding the proposed project.

Ms. Weiss acknowledged receiving a recent letter correspondence from Jim and Sharon Westby expressing opposition regarding the proposed project.

Mr. David Grokenberger presented specific highlighted/focused legal concerns from a Hearing Exhibit Book that he submitted for the record, and expressed his opinion that the modification should be denied.

Ms. Betsy Ingalls expressed concern regarding hedge height and claimed a lack of cooperation from the applicant of the proposed project.

**ACTION:****Assigned Resolution No. 003-08**

Tentative Decision to be final when issued in writing:

The Staff Hearing Officer is not inclined to grant the rear overheight hedge modification request but may find it appropriate to grant approval for a minor amount due to grade differential, topography, and height consistency with an existing neighboring 6-foot hedge height. This would be conditional upon detailed and accurate grade and topographical measurements. The Staff Hearing Officer approves of the 3½ foot front overheight hedge modification request above the existing retaining wall along the front lot line within the 10-foot front setback, and approves the 8-foot overheight hedge height along the front lot line east of the garage.

Ms. Weiss announced the ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Commission which will begin once the written decision is issued.



# City of Santa Barbara California

## CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 003-08

1406 GRAND AVENUE

MODIFICATION

HEARING HELD: JANUARY 16, 2008

DECISION ISSUED: JANUARY 30, 2008

**APPLICATION OF JILL KENT, 1406 GRAND AVENUE, APN 029-042-014, R-2 TWO-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 3 UNITS PER ACRE (MST2007-00606)**

The 9,800 square foot project site is currently developed with a single-family residence and garage. The proposed project involves an enforcement case for over height vegetation. The discretionary application required for this application is a Modification to permit existing hedges located within ten-feet (10') of the front lot line to exceed the maximum allowed height of 3 ½' and other existing hedges within required yards to exceed the maximum allowed height of eight feet (8') (SBMC §28.87.170).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15305.

**WHEREAS**, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, no one appeared to speak in favor of the application, and two people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, January 8, 2008.
2. Site Plans
3. Correspondence received in support of the project:
  - Mr. Eric C. Kitchen, 610 Anacapa Street, Ste. B-3, Santa Barbara, CA 93101
4. Correspondence received in opposition to the project:
  - a. Ms. Paula Westbury, 650 Miramonte Drive, Santa Barbara, CA 93109.[Please confirm if Paula's correspondence was for or against the hedges. Her usual position is to keep everything the way it is. That would tend to support the application for the modification for the "as-grown" hedges.]
  - b. Mr. & Mrs. Jim and Sharon Westby, 822 Jimeno Road, Santa Barbara, CA 93103
  - c. Mr. David M. Grokenberger, Grokenberger & Smith, 1004 Santa Barbara Street, Santa Barbara, CA 93101.
  - d. Ms. Betsy Ingalls, 836 Jimeno Road, Santa Barbara, CA 93103.
  - e. Mr. Patrick Corrigan, **EXHIBIT E** 93103.

**NOW, THEREFORE BE IT RESOLVED** that the City Staff Hearing Officer:

1. Denies the request for a modification to allow the existing over-height hedge within the required interior yard on the northern portion of the lot to be maintained to a height of twelve feet (12') because the Staff Hearing Officer does not find the request to be consistent with the purpose or intent of the Zoning Ordinance.
2. Approves the request for a modification to allow the existing over-height hedge within the portion of the front yard to the west of the garage and along the western property line to be maintained in the following fashion:
  - a. Within 10 feet (10') of the front lot line, the hedge may be maintained to a maximum height of three and a half feet (3½') above the existing retaining wall.
  - b. Any portion of the hedge that is at least ten feet (10') from the front lot line may be maintained to a maximum height of eight feet (8').
3. Approves the request for a modification to allow the existing over-height hedge along the front lot line east of the garage to be maintained to a maximum height of eight feet (8').

The Staff Hearing Officer is aware of Santa Barbara County Superior Court Case No. 1189394 concerning alleged violations of the City's View Ordinance, Chapter 22.76 of the Santa Barbara Municipal Code. Nothing in this decision should be interpreted to allow the maintenance of hedges on the property located at 1406 Grand Avenue in a manner that violates or is inconsistent with any final order or judgment in that case.

This Resolution is adopted on the 30th day of January, 2008, by the Staff Hearing Officer of the City of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Staff Hearing Officer concerning the referenced application.

---

Kathleen Goo, Staff Hearing Officer Secretary

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Date

**PLEASE BE ADVISED:**

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission within ten (10) days after the date the written decision is issued.
2. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
3. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
  - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
  - b. The approved use has not been discontinued, abandoned or unused for a period of six months following the earlier of:
    - i. an Issuance of a Certificate of Occupancy for the use, or;
    - ii. one (1) year from granting the approval.



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CITY OF SANTA BARBARA  
PLANNING DIVISION

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A PROFESSIONAL LAW CORPORATION

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City of Santa Barbara  
Building and Safety Division

FEB 11 2008

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VIA HAND DELIVERY

February 11, 2008

Betsy E. Teeter  
Zoning Enforcement Officer  
City of Santa Barbara  
Community Development Department  
630 Garden Street  
P.O. Box 1990  
Santa Barbara, California 93102-1990

**Re: 1406 Grand Avenue - Land Use Violation**  
**APN: 029-042-014 Zone: R-2**  
**Enforcement Case No. ENF2006-00111**

**NOTICE OF APPEAL**

Dear City of Santa Barbara:

On behalf of property owner, Jill Kent, we are writing to appeal the Staff Hearing Officer's decision directing Ms. Kent to lower her hedges along the westerly portion of the front yard (ten feet back from the front lot line) based on procedural errors at the hearing and inaccurate interpretation and application of the ordinance provisions.

The Hearing Officer, Ms. Weis, said she attempted to measure the hedges, but did not bring anything to do so. In the hearing, she then stated that she really could not make a decision about the height without the proper equipment to determine the height and topography.

Citing the ordinance, Ms. Weis stipulated the height of the South hedge in front of Ms. Kent's house and the west hedge from the front to 10' back to be 3 1/2'. The ordinance states this requirement because of driveway visibility and/ safety issues.

EXHIBIT F

Betsy E. Teeter  
Zoning Enforcement Officer  
City of Santa Barbara  
Community Development Department  
2/11/2008  
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In fact, the neighbors who have complained to the City have repeatedly demanded that her South and East hedges be pruned at 8'. There has been no complaint or issue concerning these front hedges to be pruned lower than 8' as there are no driveway or safety issues.

Many photographs show that the surrounding neighbors' hedges are also in violation of the ordinance and the Hearing Officer refused to consider the photos that explicitly show the compatibility of Ms. Kent's hedges with the neighborhood, and show that the neighbors' hedges are in violation of the ordinance.

The Hearing Officer denied Ms. Kent's request to maintain the hedge in front of her house at the 8' level, again citing the ordinance.

The neighbors reiterated that they wanted Ms. Kent's hedge on the west and south side to be limited to 8' in height. This hedge provides Ms. Kent with the necessary privacy from the street and the houses directly in front of her house. She has already pruned these hedges at 8' and continues to do so. One neighbor in front of her house has hedges in front of their windows for privacy. If Ms. Kent pruned this hedge to 3 1/2', her house would look directly into the windows of her neighbors across the street and they would look into hers.

Ms. Kent's neighbors admitted that they have outstanding views of the mountains, ocean and city. The location where they do not have a view is directly behind her house. These hedges are essential to Ms. Kent's privacy with respect to people walking past who would be easily able to look into her windows and, in fact, her neighbors have planted a hedge at the same location to the south of their property (north of her property) and allowed it to grow to 6' for their privacy purposes. Due to the height difference in topography, if Ms. Kent's hedge were at 8' feet that would be 2' lower than the neighbors' hedge. The photographs for your consideration were not considered at the hearing.

Ms. Kent first moved to this Grand Avenue neighborhood 12 years ago. One of the main reasons she chose the lower Riviera area was for the ambience of the neighborhood, the obvious value of privacy of the surrounding properties, and the potential for a creating a large garden incorporating the canyon with the views. Ms. Kent was a docent at Lotusland and has a passion for collecting rare specimen plants from around the world. She has lived here for 40 years and has a passion for preserving the historical ambience and architecture of Santa Barbara as evidenced by

Betsy E. Teeter  
Zoning Enforcement Officer  
City of Santa Barbara  
Community Development Department  
2/11/2008  
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her active participation in the Pearl Chase preservation committee as well as renovation of many Santa Barbara historical properties.

At the time of her 1406 Grand Ave. purchase, there was a tall, mature Eugenia hedge in diseased condition located at the front of the property and a tall unruly plumbago hedge located at the rear of the property.

On the first page of the photographs, the hearing officer could see a picture taken in 1997 that shows an unruly plumbago hedge at the rear of the property. Any neutral observer can see the height of that hedge reaches to the second floor of the residence behind her located at 836 Jimeno. She replaced both these hedges with podocarpus.

Now Ms. Kent's privacy is threatened. Unfortunately, her neighbor has continuously complained to the City about the height of her hedges that allows her privacy under the guise of the City ordinance governing height of residential property hedges. Ms Kent understands that the City must act upon citizens continually complaining about a violation of an ordinance.

In this case, the complaint is totally unjustified, as the height of Ms Kent's hedges does not impact either of the complaining neighbor's properties, 1408 Grand Avenue or 836 Jimeno, as you will see by the photographs. In addition, the photographs also display multiple violations of neighbors in regard to the same City ordinance, and these neighbors obviously value their privacy as Ms Kent does.

Please note that the hedge that her neighbor has across the street at 1403 Grand has planted in front of their windows to allow them privacy from the street. There is no 10' set back and the hedge is taller than 42".

Ms Kent is not complaining about any of her neighbors that have chosen to protect themselves from neighbors intruding upon their privacy. A picture is worth a thousand words.

Please note that the complainant is the neighbor who has lodged the complaints against Ms Kent. Their pittosporum hedge at the rear of their property at 1408 Grand Avenue is located on top of a stone wall at least 3' high. This hedge is clearly in violation of the 8' high ordinance.

Betsy E. Teeter  
Zoning Enforcement Officer  
City of Santa Barbara  
Community Development Department  
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Please note as well that the rear hedge of 834 Jimeno, the property located directly behind 1408 Grand Avenue. This is the same hedge at the higher elevation. This scenario is identical to the rear hedge of her property because of the elevation change.

Please note any one can see the difference in the elevation of 836 Jimeno and the tile roof of 1408 Grand Avenue. Anyone can see the two rear hedges, the 836 Jimeno honeysuckle hedge (blooming red/orange) and her podocarpus hedge slightly higher. If her neighbor pruned his honeysuckle hedge at 8', the two hedge heights would be identical. The record also shows clearly the same two hedges. The photographic record also shows an overgrown easterly side view of the same 836 Jimeno property also in violation of the ordinance.

The photo record also shows that the side westerly hedge of 836 Jimeno is clearly in violation of the ordinance. The views on the photos show west from 836 Jimeno and east from 834 Jimeno.

Why does the neighbor who complained about her hedges not comply with the ordinance on the two properties that he owns?

We respectfully request that the City review the other photographs of her immediate neighbors' properties that also corroborate their need for privacy.

We respectfully request that the City grant Ms. Kent the modification to allow her hedges to remain at their current height, 8' in the south front, 8' to the west side, and 12' to the rear (which is actually 8' from the higher elevation behind her at 836 Jimeno).

We respectfully ask and request that The City allow Ms Kent her privacy from these neighbors

The ordinance does not take into account the topography of the properties. It assumes that the boundary lines between properties have the same grade differential. To require a hedge at the front and side of a property would presumably be for safety issues, i.e., ingress and egress from a garage or driveway, which is not the situation with Ms. Kent's property.